



## Daviess County HEALTH DEPARTMENT

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# Changes to the Indiana Home Based Vendor Rule IC 16-42-5.3 Effective July 1, 2022

## Overview:

HEA 1149, effective July 1, 2022, specifies requirements for the preparation and sale of food products by a Home Based Vendor (HBV). It also reorganizes provisions concerning the sale of certain food products by an individual vendor at a farmers' market or roadside stand. It also requires an individual who sells poultry, rabbits, or eggs and intends to be exempt from the food safety requirements of a food establishment to comply with certain requirements.

Indiana Code 16-42-5-29 was passed into law in 2009. HEA 1149 repeals IC 16-42-5-29 and adds IC 16-42-5.3 as a new chapter. Prior to the passage of HEA 1149, individuals selling products made from their home could only sell these products at farmers' markets or roadside stands. The most pertinent changes made in HEA 1149 include the expansion of where HBVs may sell their products and the requirement of obtaining a food handler certificate for all HBVs.

## Home Based Vendor Defined (IC 16-42-5.3-4):

A Home Based Vendor shall prepare and sell only a food product that is:

- Made, grown, or raised by an individual at the individual's primary residence, including any permanent structure that is on the same property as the residence (*HBVs may not use leased/borrowed spaces that are located off the property of a HBVs primary residence*).
- Not a potentially hazardous food product.
- Prepared using proper sanitary procedures (*proper hand washing; sanitizing the container or other packaging in which the food is contained; storing the food product safely; producing the food product in a food preparation or packaging area in which animals are not present; and cleaning and sanitizing of surfaces that have contact with the food product*).
- Can be sold anywhere in person, by mail, or shipped by a third-party carrier inside the state of Indiana.
- Not resold (e.g., you must sell to the end user and not to someone who intends to resell if you do this you must be licensed as a wholesaler).

## Examples of HBV Products:

Home-based vendors are allowed to sell non-potentially hazardous foods. Non-potentially hazardous foods are those that do not require refrigeration for food safety. This list of allowable foods includes:

- Baked items – cakes, fruit pies, cookies, brownies, dry noodles
- Candy and confections – caramels, chocolates, fudge, hard candy
- Produce, whole and uncut fruit and vegetables
- Tree nuts, legumes
- Honey, molasses, sorghum, maple syrup
- Jams, jellies, preserves – only high acid fruit in sugar (*this is the only home-canned food allowed*).
- Wild mushrooms (*IDOH strongly advises mushrooms be identified by an IDOH-recognized mushroom expert*)

*There may be other potential products that are acceptable. For specific guidance contact your local health department.*

### **Labeling Requirements (IC 16-42-5.3-5):**

Specific labeling requirements must be present with and/or on the food at the point of sale regardless of whether the product is packaged. Unpackaged foods should be considered “labeled” when there is easily readable signage accompanying the food product stating all the listed items below (*HBVs must post the label information of each product on their online marketing platform*):

- The name and address of the producer
- The common or usual name of the food product
- The ingredients of the food product, in descending order by predominance by weight
- The net weight and volume of the food product by standard measure or numerical count
- The date on which the food product was processed
- The following statement in at least 10-point type: This product is home produced and processed and the production area has not been inspected by Indiana Department of Health.

### **Shipping or Delivering (IC 16-42-5.3-6):**

HBVs must maintain an electronic or paper record of the shipping or delivery address of each end consumer the vendor sells a food product to for at least one (1) year after the date of sale. Such records may be requested at any time by IDOH, specifically for food complaints and outbreak investigations.

A HBV may not ship or deliver a food product to an end consumer who is located outside Indiana.

All products shipped or delivered must be protected by tamper resistant packaging to allow end consumers to visually determine if the products were tampered with.

### **Food Handler Certificate (IC 16-42-5.3-7):**

HBVs must obtain a food handler certificate from a certificate issuer accredited by the American National Standards Institute (ANSI). A HBV must provide a copy of the certificate to the local health department in the county where the HBVs residence is located. Further, upon request, the HBV must provide a copy of the certificate to the regulatory agency or an end consumer.

- Information regarding ANSI certified courses can be found at <https://anabpd.ansi.org/accreditation/credentialing/certificate-issuers/AllDirectoryListing?prgID=212,238&statusID=4>
- HBVs must keep the food handler certificate current, and not let it expire.
- The Purdue Extension Food Safety Team is preparing a series of in-person ServSafe food handler trainings. Call your local Purdue Extension office or visit [www.purdue.edu/servsafe/workshops](http://www.purdue.edu/servsafe/workshops) to find classes as they are scheduled.
- Other providers have Food Handler trainings available both online and in-person, but whichever provider chosen must meet ANSI certification requirements.

### **Regulatory Authority (IC 16-42-5.3-8):**

HBVs remain subject to inspection and/or laboratory sampling if:

- The HBV is non-compliant with IC 16-42-5.3.
- The HBV's food product is misbranded or adulterated.
- A consumer complaint is received.
- There is an imminent health hazard.

### **Vendors Who Sell Poultry and Rabbits (IC 16-42-5.3-10):**

- Vendors who solely sell certain poultry, rabbits, or chicken eggs and meet certain requirements are not considered HBVs but are exempt from food establishment requirements.
- Because vendors who solely sell poultry, rabbits or chicken eggs are not HBVs, they are exempt from the Food Handler Certificate requirement.
- Poultry and rabbits are permitted to be sold only at roadside stands, producing farms, and/or farmers' markets.
- Poultry and rabbits sold on the farm where the product is produced must be kept refrigerated at the point of sale and through delivery by the producer to the end consumer.
- All poultry and rabbits sold at farmers' markets and roadside stands must be frozen at the point of sale.
- Rabbits must be labeled according to the same label requirements as in IC 16-42-5.3-5. Poultry must be labeled according to IC 15-17-5-11.
- The Indiana Board of Animal Health (BOAH) regulates the slaughter and processing of poultry and poultry products. A vendor selling poultry should contact BOAH regarding additional requirements and abide by IC 15-17-5-11.
- The regulations pertaining to sale of meat, poultry and dairy products have not changed. As high-risk products, these items are still subject to inspection, packaging, labeling and distribution laws. More information about selling meat products at farmers markets is online at:  
<https://www.in.gov/boah/files/Farmer-Mkt-Sale-of-Meat-Poultry-Rabbit-2021.pdf>

### **Vendors Who Sell Chicken Eggs (IC 16-42-5.3-11):**

- In-shell chicken eggs can be sold to the end consumer if the vendor is registered under the Indiana State Egg Board and follows their requirements, including guidelines on packaging, labeling and refrigeration.
- Vendors selling chicken eggs must follow IC 16-42-11, including the label requirements for eggs.

### **Additional Information:**

HEA 1149 allows HBVs who meet the requirements in the new law to sell food products anywhere in Indiana. With this less restrictive law comes a few additional requirements. Most notably, HBVs must obtain a food handler certificate from a certificate issuer that is accredited by ANSI.

For any additional information contact your Local Health Department Food Safety Regulators.

Daviess County Health Department Food Safety can be reached at (812) 254-8666, opt 3 or by email at [foodsafety@daviesshealth.com](mailto:foodsafety@daviesshealth.com) or visit our website for general information, [www.daviesshealth.com](http://www.daviesshealth.com).